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Item 28 of the preliminary list*
Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Second International Decade for the Eradication of Colonialism

Report of the Secretary-General

Addendum**

Annex

Replies received from Member States

Argentina

[Original: Spanish]
[18 May 2005]

I. Introduction

1. The Government of the Argentine Republic once again declares its full support for the decolonization process carried out by the United Nations through its relevant bodies, in conformity with the purposes and principles of the Charter of the United Nations and the principles set forth in General Assembly resolution 1514 (XV). The Argentine Government has a special interest in the successful and final completion of this process and is fully convinced that cooperation among all the Member States of the Organization will make it possible to achieve this goal.

2. The Argentine Republic has demonstrated its firm commitment to the eradication of colonialism since the beginning of this process, in particular by establishing close cooperation with the Special Committee on the Implementation of

* A/60/50 and Corr.1.
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the Declaration on Decolonization at the time of the annual consideration of the situation of the Non-Self-Governing Territories. Furthermore, it has actively participated in discussion of agenda items relating to decolonization in the Fourth Committee and, since 1990, in the seminars on decolonization held in the Pacific and Caribbean regions.

3. The Argentine Government is firmly convinced that the work carried out by the Special Committee, as well as the measures adopted by the Secretary-General, have led to impressive progress in the decolonization process. However, there are still unresolved colonial issues to which the Special Committee should devote renewed efforts. Among these, the Argentine Republic attaches particular significance to the sovereignty dispute between it and the United Kingdom of Great Britain and Northern Ireland over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.

II. The question of the Malvinas Islands is a special colonial case: United Nations resolutions on their decolonization

4. On 3 January 1833, British forces expelled the Argentine inhabitants and authorities established in the Malvinas Islands and began their illegal occupation, creating a special colonial situation unlike any other. This is confirmed in numerous resolutions of the General Assembly and of the Special Committee on the Implementation of the Declaration on Decolonization.

5. Forty years ago, the Special Committee laid the foundations for the doctrine later reflected in General Assembly resolution 2065 (XX), which establishes that the Malvinas question refers to the dispute between the Argentine Republic and the United Kingdom concerning sovereignty over the Islands, which should be resolved through negotiations, bearing in mind the provisions and objectives of the Charter of the United Nations and of General Assembly resolution 1514 (XV) and the interests of the population of the Islands.

6. General Assembly resolution 2065 (XX) clearly specifies, first, that there is a dispute concerning sovereignty over the Malvinas Islands; second, that there are only two parties to that dispute: the Governments of the Argentine Republic and of the United Kingdom; third, that its solution must be found through negotiations between the two Governments, as the only way to put an end to the colonial situation; and fourth, that both parties, in the search for a solution, must take into account the interests of the inhabitants of the Malvinas Islands, which therefore excludes the application of the principle of self-determination. It should be recalled that in 1985 the General Assembly took a clear position in that regard when it rejected two British amendments that aimed to include that principle in the relevant draft resolution.

7. Paragraph 6 of resolution 1514 (XV) states that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country — in this case, the Argentine Republic — is incompatible with the purposes and principles of the Charter of the United Nations. Thus, in the question of the Malvinas, the violation through a nineteenth century imperialist act of the sovereignty and territorial integrity of an independent republic, Argentina, recognized by Great Britain itself, makes the principle of territorial integrity take precedence over the principle of self-determination.

8. It should be borne in mind that the United Kingdom, since expelling the Argentine authorities, has excluded mainland Argentine inhabitants from the islands, establishing in their place a population of British origin.

9. To maintain that the inhabitants of the islands have the right to self-determination would make them the arbiters of a territorial dispute to which the country that has settled them is a party. In other words, the colonial Power would validate its own usurpation and justify itself. The right to self-determination applies to peoples different from that of the colonial Power and subjected to alien subjugation, domination and exploitation.

10. The Argentine Republic immediately protested against the events of 1833 and has never consented to them, and it has repeatedly demanded and will continue to demand that the islands be returned. The passage of time and the prolonged British occupation have in no way undermined that country's right. The continuation of this situation cannot be considered to generate rights for the occupying Power over those territories.

III. The provisional understandings and the unilateral British actions in violation of General Assembly resolution 31/49

11. Since 1989, the two countries have reached provisional understandings under the sovereignty formula regarding practical aspects of the South Atlantic. These understandings must not be interpreted as acceptance by Argentina of an alleged status quo in the region, however, and are not a substitute for a final solution to the dispute.

12. The Argentine Government regards as inadmissible the unilateral British actions in the disputed area, which are in violation of General Assembly resolution 31/49. That resolution calls upon the parties to refrain from introducing unilateral modifications in the situation while the islands are going through the process of decolonization.

13. Despite this, on more than one occasion the United Kingdom has failed to respect the terms agreed upon with the Argentine Republic, which does not accept, and has protested against and rejected, alleged exercises of British jurisdiction in the disputed areas.

14. These include fisheries police activity in the South Atlantic, seismic hydrocarbon surveying activities and the granting of licences for the exploration and exploitation of minerals and related aeromagnetic surveying activities. Along with these actions, there are the continued exclusion of mainland Argentina from direct contacts and communications with the Malvinas Islands, British reluctance to proceed with confidence-building measures in the military sphere, the continued sale of illegal fishing licences in the Argentine exclusive economic zone and the persistent presence and recent upgrading of the British military base in the Malvinas Islands, which the Argentine Government has brought to the attention of the United Nations.

15. The Argentine Government remains prepared to work with the Government of the United Kingdom to reach other provisional undertakings under the sovereignty formula, formulated in balanced terms and for mutual benefit, and aimed at establishing a framework conducive to the resumption of negotiations on sovereignty.

IV. The claim to sovereignty over the Malvinas Islands has constitutional weight

16. The people and Government of Argentina attach great importance and high priority to the recovery of the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas. In this connection the national Constitution states that the Argentine nation confirms its legitimate and imprescriptible sovereignty over the Malvinas Islands, South Georgia and the South Sandwich Islands and the corresponding maritime and island areas as being an integral part of the national territory. The recovery of those territories and the full exercise of sovereignty, while respecting the way of life of their inhabitants, constitute a permanent and unwavering goal of the Argentine people.

V. The need to resume negotiations on sovereignty

17. The United Nations is aware of the continued willingness of the Argentine Government to reach a just, peaceful and lasting solution to this pressing issue regarding the foreign policy of the Argentine Republic. The resolutions of the Special Committee on the Implementation of the Declaration on Decolonization, as well as those of the General Assembly and the Organization of American States, call upon the parties to resume the negotiations on sovereignty without delay.

18. Despite the repeated international call for negotiations and the positive attitude demonstrated by Argentina, the United Kingdom has not yet shown an equivalent response, hence it has not been possible to resume negotiations on the sovereignty dispute. The Argentine Government hopes that the mission of good offices entrusted to the Secretary-General by the General Assembly will contribute to a resumption of the negotiations concerning the sovereignty dispute. It also hopes that the work of the Special Committee on the Implementation of the Declaration on Decolonization will help meet this objective, in order to find a just and lasting solution to the question of the Malvinas Islands.